

CLARKE COUNTY
Planning Commission
Minutes
2010 May 7– 9:00 a.m.

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, May 7.

Commissioner Ohrstrom called the meeting to order at 9:07 a.m.

ATTENDANCE

George Ohrstrom, II; Chair; Anne Caldwell, Vice Chair; A.R. Dunning, Jr., Tom McFillen, Beverly McKay, Cliff Nelson, Kathy Smart, Chip Steinmetz, and Richard Thuss.

ABSENT

Barbara Batterton and Bob Wade

STAFF

Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator; Alison Teetor, Natural Resources Planner and Debbie Bean, Recording Secretary.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda.

Yes: Caldwell (moved), Dunning, McFillen, Nelson, Ohrstrom, Steinmetz, Smart (seconded), and Thuss

No: No one

Absent: Batterton, McKay, and Wade

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing meeting minutes of 2010 March 30.

Yes: Caldwell (moved), Dunning, Nelson, Ohrstrom, Smart (seconded), Steinmetz and Thuss

No: No one

Abstained: McFillen

Absent: Batterton, McKay, and Wade

The Commission voted unanimously to approve the regular meeting minutes of 2010 April 2 with one correction.

Yes: Caldwell (moved), Dunning, Nelson, Ohrstrom, Smart, Steinmetz, and Thuss (seconded)

No: No one

Abstained: McFillen

Absent: Batterton, McKay, and Wade

Commisisoner McKay entered the meeting.

TEXT AMENDMENT – PUBLIC HEARING

CornerStone Power Development LLC (Nicholas Bullinger, agent) requests approval of the following amendments to the County Zoning Ordinance:

Section 3-A-1-a-3, Special Uses in the Agricultural-Open Space-Conservation (AOC) Zoning District, so as to add “Large Photovoltaic Solar Power Plant” as a Special Use;

Section 3-C-2, Supplementary Regulations for Uses in Various Districts, so as to add regulations for “Large Photovoltaic Solar Power Plant”;

Section 9-B, Definitions, so as to add a definition of the use: "Large Photovoltaic Solar Power Plant"; TA-10-02

Mr. Johnston explained this request. Mr. Johnston said that the text has been modified to reflect changes discussed at the last Planning Commission meeting. He said that staff has called different jurisdictions to get information on these facilities. He stated that Accomack and Northampton Counties in Virginia are considering allowing this same type of facility and are going through the same process that we currently are. He said that he spoke with a representative from Allegheny Power and he said that they are working with CornerStone Power and that this is something they are very much interested in. He said the most significant element is the life of this project. He questioned that as technology evolves what will happen to this facility. He said that Nick Bullinger, agent for CornerStone Power Development LLC was present to answer questions from the Commission. Mr. Bullinger answered the question about the life of the facility and what would happen in the future. He said that the lender would take over if the property owner walked away.

The Chair asked Mr. Bullinger to make his presentation. Mr. Bullinger distributed a booklet entitled 'Overview of Proposed Solar Power Facility in Clarke County, Virginia'. He said he would go over the first section entitled 'Project Summary'. He said that CornerStone Power has been developing power plants for over fifteen years. He said CornerStone would be leasing 145 acres from Monte Gibson, who owns property that adjoins the Double Tollgate substation. He explained photovoltaic technology and there would be no emissions. He gave a brief description about substations. He said sub-stations carry power from power lines and convert the power to lower voltages and put it onto local lines. He said substations are very expensive to build. He said just to hook their equipment up to a substation can cost a million dollars. He said that Allegheny Power is the current owner of the substation. He said that when Allegheny Power is sold the new owner is obligated to allow CornerStone Power to interconnect. He said the noise would be minimal in the area. He stated that the area would be plowed and re-seeded with low growth vegetation. He presented a timeline for the project showing the first twelve months would be working with the County on appropriate zoning, permitting, and community input. He said the goal is to complete the project by the beginning of 2012 with construction beginning by next summer. He stated that a security building and maintenance shed would be erected on the property. He said that these structures would be constructed to blend in with the surrounding area.

Commissioner Caldwell asked how much above ground power line will be needed to construct the cells to connect to the sub station and can those lines be underground? Mr. Bullinger said yes it can be underground and that it would cost a little more. He said their aim is to minimize the distance would go underground. She asked if another small substation would be erected for this facility. He said if a substation is erected it would be small and be close to the current one. She asked how many structures would be erected. He said there would be two structures put up and also converter boxes. He said some of the boxes can be grouped together but he did not have the exact number at this time.

The Chair asked that if we as a locality would require underground connections would that create a problem? Mr. Bullinger said they would be able to do underground connections. Commissioner Smart stated that with all the wires already there it would not really be a problem. Mr. Russell stated that it would be like treating a leper for acne.

Commissioner Dunning complimented Mr. Bullinger for his informative presentation.

The Chair asked for public comments. There being no public comments, the Chair called for a motion.

The Commission voted unanimously to recommend approval of the above text amendment to the Board of Supervisors.

Yes: Caldwell, Dunning, McFillen, McKay (seconded), Nelson, Ohrstrom, Smart (moved), Steinmetz, and Thuss

No: No one

Absent: Batterton, and Wade

COMPREHENSIVE PLAN AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the 2007 Clarke County Comprehensive Plan so as to incorporate the recommendations of the County Green Advisory Committee as stated in its 2009 Clarke County Energy and Resource Management Policy so as to add a goal to the Comprehensive Plan and amend policy statements within Objective 4 to encourage stewardship over resources and to foster conservation of resources by the private sector. CP-10-01

Ms. Teetor explained this item. She said that on 2008 May 20 the Board of Supervisors appointed a team of business leaders, citizens, elected officials and staff to work with the County Administrator to develop goals and policies which address energy efficiency, conservation and education and create a plan to reduce the County's overall environmental impact, saving tax dollars and improving services.

She stated that the committee met approximately twice monthly since its establishment to fulfill the directive. In October of 2008, the committee presented the Board with an interim report (45 day report) that identified nine primary categories where improved resource management could be achieved: Energy Efficiency, Renewable Energy, Transportation, Land Use, Water Conservation, Recycling and Waste Management, Education and Outreach, Incentive Programs, and County Employee Management. The committee approached each category with the goal that any recommendations would be cost effective and achieve one or more of the following: a) reduce the demand for energy and other resources; b) reduce greenhouse gas emissions; c) maintain or improve our natural environment; d) promote healthy indoor environments.

She stated that the Board adopted a Resolution Establishing Energy Resource Management Policies on 2010 January 19. The Energy and Resource Management Plan provides background and implementation steps for those Policies and was adopted 2010 April 20. She said that one of these Policies calls for amendments to the Comprehensive Plan. The language suggested is that proposed by the committee. The changes are intended to make it explicit that sustainable stewardship is a County goal and emphasize the implementation of that goal with stronger policy statements within Objective 4. She said this is important in order to provide support for all energy management practices proposed for implementation as outlined in the Plan.

After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this request for the next regular meeting of the Commission on 2010 June 4.

Yes: Caldwell (moved), Dunning, McFillen, McKay, Nelson, Ohrstrom, Smart (seconded), Steinmetz, and Thuss

No: No one

Absent: Batterton, and Wade

CODE AMENDMENT – SEPTIC ORDINANCE - ENDORSEMENT

The Clarke County Board of Supervisors will consider the following Code amendments:

Chapter 180, Water and Wastewater, so as to delete Section 180-5 Subsurface conventional septic tank and drainfield systems, required; alternative systems; and

Chapter 143, Septic Systems, so as to establish standards for the siting and installation of alternative onsite sewage systems. CC-10-01

Ms. Teetor said this is technically only a Board of Supervisors matter but the impacts on land use will affect the Planning Commission and therefore the matter is brought before the Commission for its edification and endorsement. She gave a power point presentation about this amendment. She said the 2009 Virginia General Assembly passed regulations stating that a locality shall not prohibit the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health. She stated that in addition, a locality can not require maintenance standards and requirements for alternative onsite sewage systems that exceed those allowed under or established by the State Board of Health. She stated these actions require the County to revise its ordinance. She said it was important to regulate on-site sewage systems as such facilities are the number one contamination of ground water. She explained the proposed amendments.

Mr. Dunning asked if a performance bond should be provided to the Clarke County before issuance of the construction permit for the installation of an alternative onsite sewage system. She said she was investigating this idea and was discussing it with the county's land use attorney, Robert Mitchell. The Commission agreed that the requirement for bonding could be considered in the future.

Frank Lee, soils consultant, was present to answer questions from the Commission. He stated that all alternative systems would have to be inspected. He stated that the state has required these systems to be inspected every six months. He said that the County should educate homeowners about these systems to ensure that these systems work properly.

Mary Bathory Vidaver, a county resident and a staff assistant to a member of the Loudoun County Board of Supervisors answered questions from the Commission. She explained Loudoun County's approach to this issue. She said that Loudoun County has determined that approximately 50% of the alternative systems were not working properly. She stated that the results from the inspections were sent to the governor and other organizations. She said they are currently discussing about drainfield requirements.

After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to endorse this amendment to the Board of Supervisors.

Yes: Caldwell (moved), Dunning, McFillen, McKay, Nelson (seconded), Ohrstrom, Smart, Steinmetz, and Thuss

No: No one

Absent: Batterton, and Wade

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Section 3-A-1-a and 3-A-2-a, Special Uses in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Zoning Districts so as to state that Boarding Kennels shall consist of more than five canine or feline animals, that Breeding Kennels shall consist of more than 20 canine animals, and to delete the adjective 'commercial' when describing 'Breeding Kennels'.

Section 9-B, Definitions, so as to modify the definition of 'Commercial Breeding Kennel', so as to delete the adjective 'commercial' and to delete the requirement in the definition of 'Boarding Kennel' or 'Breeding Kennels' shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling so as to shift these requirements to Supplemental Regulations.

Section 3-C-2-l, Supplementary Regulation for Home Occupations, so as to include in the AOC and FOC Zoning Districts, commercial boarding or breeding kennels as home occupations limiting the size of a Breeding Kennel to 20 canine adult animals and limiting Boarding Kennels less than five canine and/or feline adult animals;

Section 3-C-2-gg, Supplementary Regulation for Commercial Boarding Kennels and Breeding Kennels so as to shift use and setback regulations for such uses from the definition section of the Zoning Ordinance to this section. TA-10-04

Commissioner McKay left the meeting.

Mr. Russell explained this request. He stated that a committee was comprised of Alice Harrington (Virginia Federation of Dog Clubs and Breeders), Susan Markley (local dog breeder), Gwen Hales (local dog breeder), Richard Thuss, and Cliff Nelson to revise the amendment. He stated that they removed the name companion animal and they made a recommendation for a set back requirement from property lines.

Commissioner Dunning stated he has no problems with breeders but he does have a problem with having 18 dogs. He said that many dogs is a hand full. He said allowing 18 dogs without any set backs is wrong.

Commissioner Thuss said this specifically addresses borders and breeders not homeowners.

Commissioner Dunning said we are putting blinders on if we do not address the number of animals. Mr. Johnston suggested we could put the number of dogs you can have by the number of acres you own. The Commission agreed that private ownership would be addressed at a later time.

There being no further discussion, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this amendment as presented for the next regular meeting of the Commission on 2010 June 4.

Yes: Arnold, Caldwell (seconded), Nelson, Ohrstrom, Smart (moved), Steinmetz, and Thuss

No: Dunning

Absent: Batterton, McKay, and Wade

Board/Committee Reports

Board of Supervisors

– **Pete Dunning**

Commissioner Dunning stated that they are keeping fingers crossed that we will be starting the new high school. He stated that bids are going out in a matter of days. He stated that the Board approved the Berryville Area Plan Amendment and the text amendment regarding seasonal farm markets was tabled.

Sanitary Authority

– **Pete Dunning**

Commissioner Dunning stated that the Authority is moving along on the water tower at Brown Town. He stated that the upgrade to the Boyce sewage system is one of the last to be updated. He said we are way ahead for a community of our size. He said when we are fully up and running we will see a definite improvement.

Board of Septic & Well Appeals

– **Pete Dunning**

Nothing to report.

Board of Zoning Appeals

– **Anne Caldwell**

Nothing to report.

Historic Preservation Commission

– **Cliff Nelson**

Commissioner Nelson stated that the Commission has a public hearing set for 2010 May 11 on a Certificate of Appropriateness. He stated that the next meeting of the Commission is scheduled for 2010 June 1 at 11:00 a.m. at the Battletown Inn.

Conservation Easement Authority

– **George Ohrstrom, II**

Chair Ohrstrom stated that the Authority is moving along and trying to use up grant money. He said credit goes to Ms. Teetor for getting grant money, as she is a whiz at doing it.

Staff Reports

Natural Resource Activities

– **Alison Teetor**

Nothing to report.

Enforcement Officer

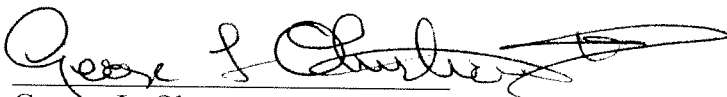

– **Nancy Olin**

Ms. Olin's progress reports for 2010 March 25 thru 2010 April 28 were reviewed

Other

Mr. Johnston stated that the General Assembly has passed an amendment for accessory uses for medical pods or freestanding buildings for infirmed parents or disabled people. He stated that these pods have a definite definition in the state code but are not to be permanent structures. He said this would be coming to the Planning Commission in the near future. He stated that repretatives from Sheetz were in and stated that they would like to install a freestanding diesel pump station at their facility in Waterloo. He said that the Q-Stop on Route 7 has been sold to 7-Eleven.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:29 a.m. until the next regular scheduled meeting on 2010 June 4.


George L. Ohrstrom, II, Chair
Charles Johnston, Clerk

Minutes prepared by Debra L. Bean, Recording Secretary